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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)
Streamlining the Commission's)
Antenna Structure Clearance)
Procedure)

WT Docket No. 95-5

and)

Revision of Part 17 of the)
Commission's Rules Concerning)
Construction, Marking, and)
Lighting of Antenna Structures)

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REPLY COMMENTS OF GTE SERVICE CORPORATION

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behalf of its telephone,
equipment, and service
companies

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SUMMARY

The record reveals strong support for the Commission's proposals to streamline the antenna structure clearance process, create a uniform database, and revise Part 17 of the Commission's rules. However, the record supports modification of several proposed procedures to enhance the antenna structure registration process.

The record supports each of GTE's positions with regard to certain NPRM proposals. First, a substantial number of commenters oppose the registration of all antenna structures. Second, many commenters request that the registration procedures be designed to avoid delay in site construction. Third, the commenters agree that tenant licensees should have little or no secondary responsibility for ensuring compliance with FAA lighting and marking guidelines. GTE believes that no such secondary responsibility should fall to licensees. Fourth, the record supports a grace period for providing corrected structure information and the grandfathering of authorizations that differ from corrected coordinates.

GTE strongly opposes the proposal of the Federal Aviation Administration that structure coordinates be reported with an accuracy of tenths or hundredths of a second. GTE joins other commenters in opposing a renewal process, and acknowledges that voluntary lighting and marking of towers should be under some limited restrictions. GTE also agrees with certain commenters that licensees may play an informal, but strictly

voluntary, role in notifying structure owners of the new requirements. GTE further recommends that limited waivers of the lighting and marking requirements be available for pre-existing structures that may be unable to meet current guidelines due to conflicting historic, environmental, or zoning concerns. Finally, GTE requests clarification of the current requirements for filing Form 854.

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REPLY COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation ("GTE") hereby submits its Reply Comments in the above-captioned proceeding concerning the creation of an antenna structure registration procedure and revision of Part 17 of the Commission's Rules.¹

I. Introduction

The record overwhelmingly supports the establishment of a uniform database for antenna structures and the streamlining of the antenna clearance process. However, the record also demonstrates that modifying certain proposed procedures would further streamline the registration process and better achieve the Commission's goals.

¹ See In the Matter of Streamlining the Commission's Antenna Structure Clearance Process and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures (Notice of Proposed Rule Making), WT Docket 95-5, FCC 95-16 (January 20, 1995) [hereinafter NPRM].

GTE agrees with the many commenters² who object to the registration of all antenna structures, regardless of the necessity of obtaining Federal Aviation Administration ("FAA") clearance. Registration of all structures would severely impede the registration process and result in an enormous database that would be difficult to maintain.

Additionally, in its Comments, GTE expressed concern that the registration process, as proposed, could cause significant delays in the construction of new transmitter sites. The record supports GTE's position.

GTE and a variety of commenters endorsed placing responsibility for marking and lighting of structures on structure owners. The record supports GTE's suggestion, however, that

² Comments of American Mobile Telecommunications Association, Inc. [hereinafter AMTA] at 7-8; Comments of American Personal Communications [hereinafter APC] at 3; Comments of Bell Atlantic Mobile Systems, Inc. [hereinafter Bell Atlantic] at 3; Comments of Dean Brothers Publishing d/b/a/ Fryer's Site Guide [hereinafter Fryer's] at 6-10; Comments of Industrial Communications Electronics, Inc. [hereinafter ICE] at 3; Comments of Motorola [hereinafter Motorola] at 8-9; Comments of Paging Network, Inc. [hereinafter PageNet] at 17-18; Comments of Personal Communications Industry Association [hereinafter PCIA] at 4-6; Comments of Smith & Powstenko [hereinafter Smith] at 2; Comments of Southwestern Bell Mobile Systems, Inc. [hereinafter Southwestern Bell] at 7; Comments of UTC [hereinafter UTC] at 9-10.

³ Comments of Alltel Mobile Communications, Inc. [hereinafter Alltel] at 1-2; AMTA at 4-5; APC at 1-2; Comments of the Cellular Telecommunications Industry Association [hereinafter CTIA] at 4-5; ICE at 4; Motorola at 13; Comments of Pacific Bell, Nevada Bell, and Pacific Bell Mobile Services [hereinafter PacBell et al.] at 3-4; Southwestern Bell at 4-5.

tenant licensees and permittees be relieved of all secondary responsibility.⁴

GTE agrees with the proposals of other commenters⁵ that the Commission create a grace period to permit licensees to report, without penalty, corrected coordinates that differ slightly from those authorized. In addition, as suggested by Nationwide Communications, Inc., GTE requests that licensees who report coordinates that differ slightly from those authorized be permitted to continue to operate at the corrected coordinates,⁶ as long as no danger exists to the public. GTE also disputes the utility and feasibility of the FAA's proposal that coordinates of structures be reported with accuracy to the tenths or hundredths of a second.⁷

⁴ Alltel at 2; AMTA at 4; Comments of the American Petroleum Institute [hereinafter API] at 3-5; Comments of AT&T Corp. [hereinafter AT&T] at 4-7; Comments of Capital Cities/ABC, Inc. [hereinafter Capital] at 4-6; Comments of CBS, Inc. [hereinafter CBS] at 2; CTIA at 3-4; ICE at 8-9; Comments of Mitchell Energy and Development Corp. [hereinafter Mitchell] at 2-3; Comments of Mobile Telecommunication Technologies Corp. [hereinafter Mtel] at 3-5; Motorola at 18; Comments of The National Association of Broadcasters [hereinafter NAB] at 4-5; Nationwide Communications, Inc. [hereinafter NC] at 2-3; PageNet at 7; Comments of Sprint Corporation [hereinafter Sprint] at 6-7; UTC at 13-14; Comments of Vernon Telephone Cooperative, Inc. [hereinafter Vernon] at 3-6.

⁵ AMTA at 5; Capital at 9-10; CTIA at 5-6; Comments of EMI Communications Corporation [hereinafter EMI] at 5-7; ICE at 5; Motorola at 14-16; NAB at 5-6; NC at 3-5.

⁶ NC at 4-5.

⁷ Comments of the Federal Aviation Administration [hereinafter FAA] at 3.

GTE agrees with Capital Cities/ABC, Inc. that licensees may assist the Commission in the structure owner notification process on a voluntary basis.⁸ However, no penalty should be imposed on licensees who fail to notify owners of registration obligations.

GTE agrees with certain commenters that limited waivers of lighting and marking requirements should be provided to owners of pre-existing structures that are unable to comply with current FAA guidelines due to historic, environmental, or zoning concerns.

GTE joins other commenters⁹ in opposing a renewal period for the registration of antenna structures as an unnecessary administrative burden. Upon further reflection, GTE believes that voluntary lighting and marking of towers should only be permitted where the lighting and marking are in accordance with FAA specifications or where the FAA has issued a "no objection" letter with respect to the proposed lighting. GTE opposes the FAA's suggestion that the Commission's environmental rules be revised to include medium intensity strobe lighting as per se causing a significant environmental

⁸ Capital at 13.

⁹ Alltel at 4; Comments of the Association of Federal Communications Consulting Engineers [hereinafter AFCCE] at 4; AT&T at 12; ICE at 6-7; PacBell et al. at 3; Southwestern Bell at 6; Sprint at 5.

impact.¹⁰ GTE also requests clarification of the current requirements for filing Form 854.

II. The Record Does Not Support the Registration of All Antenna Structures

Many commenters strongly oppose any requirement that all antenna structures be registered, regardless of whether such structures require FAA clearance.¹¹ The NPRM estimates that such a requirement would swell the number of antenna structures requiring registration from 70,000 to 500,000 or more.¹²

GTE agrees with commenters that the registration of so many additional structures would create an enormous regulatory burden and negatively affect all involved parties. Owners of multiple antenna structures would be required to undertake the onerous task of registering all structures. Licensees would lose the benefits of streamlined procedures, because so many new and additional filings would have to be made. Non-license owners might be reluctant to comply with the new rule and might be discouraged from renting tower space to licensees, as GTE and several other commenters expressed in their initial comments. See Comments of GTE Service Corporation at 15-16.

¹⁰ FAA at 5.

¹¹ AMTA at 7-8; APC at 4; Bell Atlantic at 3; Fryer's at 6-10; ICE at 3; Motorola at 8-9; PageNet at 17-18; PCIA at 4-6; Smith at 2; Southwestern Bell at 7; UTC at 9-10.

¹² NPRM at ¶ 8.

GTE believes that any measures that unnecessarily increase the owners' burden should be avoided.

The Commission would also be burdened by having to maintain a large and accurate and database. A requirement that all structures be registered would also necessitate a significant expansion in staffing to process the filings both initially and long term. For these reasons, GTE believes that what little benefit might be gained by registering all antenna structures would be eliminated by numerous disadvantages.

III. The Record Reflects Concern Among Licensees that the Proposed Registration Process Could Cause Delays in Construction of New Transmitter Sites

A number of other commenters¹³ agree with GTE that the need to await the issuance of a registration number for an antenna structure prior to construction, after having obtained a determination of no air hazard from the FAA, could suspend the construction of new transmitter sites for weeks or even months. Postponement of construction could cause consequent delays in initiation or improvement of service to the public.

As GTE outlined in its Comments, the proposed procedure would require that licensees file two separate forms sequentially (rather than simultaneously or in a single form) with the FAA and the FCC. The proposed process would also require that licensees await two separate administrative reviews: first, the determination of no air hazard from the FAA; and

¹³ AFCCE at 4; Alltel at 1-2; AMTA at 4-5; APC at 1-2; CTIA at 4-5; ICE at 4; Motorola at 13; PacBell et al. at 4; Southwestern Bell at 4-5.

then, upon FAA approval, the receipt of an antenna registration number from the FCC.

Various suggestions were put forth by commenters to eliminate a possible delay in the construction process. GTE strongly favors a single form for notification to the FAA and FCC,¹⁴ and the issuance of a registration number simultaneously with a determination of no air hazard. As stated in the Comments of the Aeronautical Charting Division of the National Oceanic and Atmospheric Administration, "it appears that the [Form 854] is duplicating much of the FAA Form 7460. The owners would best be served if they had only one form to file."¹⁵

As an alternative, GTE agrees with Alltel that the Commission should continue to allow licensees to begin construction after receiving a determination of no air hazard, but without awaiting issuance of a registration number.¹⁶ Construction could then proceed without further delay, and registration could be included later with the notification to the Commission of completion of construction.¹⁷

¹⁴ See UTC at 5.

¹⁵ Comments of the Aeronautical Charting Division of NOAA at 3.

¹⁶ See Alltel at 4.

¹⁷ A second alternative which would eliminate the dual delay problem has been suggested by AT&T. See AT&T at 10. Under this proposal, carriers or carrier groups would be pre-assigned blocks of numbers reasonably commensurate with their anticipated structure registration needs. Upon receipt of the
(continued...)

IV. The Comments Support Elimination of Licensees' Secondary Liability for Compliance with Part 17 of the Commission's Rules

The Commission's proposal to place the primary burden for compliance with Part 17 on antenna structure owners is laudable. However, a significant number of commenters stated that any residual responsibility for lighting and marking of structures should be eliminated or at least minimized for tenant licensees.¹⁸ GTE believes that secondary responsibility should be eliminated entirely.

The record demonstrates that tenant licensees are usually powerless to alter the conduct of an antenna structure owner.¹⁹ Even if one tenant licensee maintains the antenna structure under a contract, the other tenant licensees are

¹⁷(...continued)

initial FAA approval, the carriers could simply self-assign a number from the block and include that number on the Form 854 notification. Construction could then begin immediately. The number would then be the structure's tower number for all purposes. The delay involved in awaiting the ministerial assignment of a number by the FCC would thus be avoided.

However, there are certain disadvantages to using this method. First, if numbers are assigned by carrier (rather than in accordance with an FCC system), the FCC's ability to manipulate the database information for its own administrative purposes might be limited considerably. Second, requiring carriers to self-assign structure numbers could place an excessive responsibility on carriers. GTE prefers that the FCC streamline the registration process to the greatest extent possible.

¹⁸ Alltel at 2-3; AMTA at 4; API at 3-5; AT&T at 4-7; Capital at 4-6; CBS at 2; CTIA at 3-4; ICE at 8-9; Mitchell at 2-3; Mtel at 3-5; Motorola at 18; NAB at 4-5; NC at 2-3; PageNet at 7; Sprint 6-7; UTC at 13-14; Vernon at 3-6.

¹⁹ See, e.g., Alltel at 3; AMTA at 4; Capital at 5; ICE at 8.

still unable to ensure compliance with the Commission's rules. Additionally, any entity acting as a manager of an owner's structure is merely acting as the agent of the owner, who remains ultimately responsible for compliance with the FAA's guidelines. GTE therefore requests that the Commission eliminate entirely the secondary responsibility imposed on tenant licensees.

V. **The Record Supports a Grace Period for the Reporting of Discrepancies in Structure Coordinates, and the "Grand-fathering" of Authorizations at the Corrected Coordinates**

Several commenters requested that the Commission refrain from penalizing licensees for the registration of antenna structures with corrected coordinates or heights.²⁰ Some of these commenters also asked that in the event that corrected coordinates differ from those authorized, licensees be permitted to continue to operate at the corrected coordinates.²¹

GTE joins commenters who support the creation of a grace period during which previously existing structures would be voluntarily registered at the corrected height and location,²² without penalty to licensees whose authorized coordi-

²⁰ AMTA at 5; AT&T at 14; Capital at 9-10; CTIA at 5-6; Comments of EMI Communications Corporation [hereinafter EMI] at 5-7; Motorola at 14-16; NAB at 5-6; NC at 3-5.

²¹ See, e.g., NC at 4-5.

²² GTE agrees with the consensus that height and ground elevation be reported to the nearest meter, and latitude and longitude be reported to the nearest second. See NPRM at ¶ 16.

nates might differ slightly from the registered coordinates. A variety of factors necessitate the establishment of such a grace period.

First, the methods for measuring structure location and height have become substantially more accurate in recent years. Structure owners should not be unjustly penalized because of the limitations of past technology. Second, the usefulness of the database is dependent on compliance by a significant number of structure owners who are not Commission licensees. A grace period would encourage such owners to comply with the registration process fully. Third, the NPRM emphasizes that the registration process is largely ministerial. Therefore, corrected antenna structure information should not be used against owners and licensees who are merely complying for the common good of the Commission, the communications industry, and the public.

Under this proposal, the Commission would "grandfather" authorizations for locations that differed, within certain limits, from the currently authorized coordinates. To do otherwise would create considerable procedural headaches as licensees sought authorizations at the new coordinates or temporary extensions of their authorizations at the old coordinates. GTE proposes, however, that operation from the corrected location be grandfathered only if the corrected coordinates are no more than three seconds from the currently authorized location (either latitude or longitude) and differ

no more than two meters in height or ground elevation. Structure owners should also be required to obtain a new determination of no air hazard from the FAA for the corrected location. In addition, any party adversely affected by the proposed change in specifications should have a fixed period of time in which to lodge an objection to the correction. Otherwise, the corrected coordinates would be permanent.

The need for a grace period to file corrected coordinates is likely to arise where GPS technology provides a more precise set of coordinates than the method originally used by the licensee. In this connection, GTE strongly objects to the FAA's proposal that coordinates be reported with an accuracy of tenths or hundredths of a second.²³ Structure owners currently have difficulty ensuring the accuracy of transmitter coordinates to the nearest second. Adopting this proposal would obligate every structure owner to undertake a new GPS survey of each of its structure locations. Furthermore, owners would incur a substantial increase in costs if required to report coordinates with such a high degree of accuracy. Mandating such accuracy would discourage non-owner licensees from participating in a registration program and would provide virtually no public benefit.

²³ FAA at 3.

VI. Licensees May Voluntarily Assist the Commission in Notifying Owners of Their Registration Obligations

GTE agrees with Capital Cities/ABC, Inc.²⁴ that licensees may voluntarily and informally assist the Commission in notifying structure owners of their obligations under a registration process. However, GTE requests that no penalty fall on licensees who do not notify owners of reporting requirements.

VII. Even if Existing Structures' Lighting and Marking Requirements are Grandfathered for Ten Years, Exceptions May Need to Be Made

GTE wishes to bring the Commission's attention to potential difficulties with respect to the application of current FAA lighting and marking requirements to existing structures. As several commenters have noted,²⁵ even after ten years, it may be impossible for certain existing structures to meet current FAA standards due to the historic, environmental, or zoning circumstances of the structures or their surroundings. Thus, special exceptions or waivers should be available to allow certain structure owners to continue to lease space to Commission licensees, even if owners are unable to meet current FAA standards because of the application of other laws.

GTE also suggests that the reporting of the construction date of existing structures on Form 854 (the second item under

²⁴ Capital at 13.

²⁵ See, e.g., Capital at 7.

Purpose of Application) be made voluntary (i.e., reported if known). In many instances, the proposed requirement would prove very difficult to fulfill, as some antenna structures may be quite old or may have changed hands numerous times, and the exact date of construction may be unknown.²⁶ Moreover, there is no apparent need for the information except in circumstances where a waiver is requested or 10-year grandfathering of lighting and marking for existing structures applies.

VIII. A Renewal Process Would be Burdensome and Unnecessary

GTE joins other commenters in opposing any renewal process for antenna structure registration.²⁷ An antenna structure renewal process would not be necessary and would prove burdensome for structure owners and the Commission.

As proposed, the process would require that any modification or removal of an antenna structure be duly reported to the Commission. Commission notification of a change in structure information would be essential in order to permit the Commission to purge its records of obsolete structures and maintain the accuracy of its database. However, an additional renewal requirement would be duplicative of the proposed procedures, adding unnecessarily to the cost of the registration process for the Commission as well as for structure

²⁶ See AT&T at 12-13.

²⁷ AFCCE at 4; Alltel at 4; AT&T at 12; ICE at 6-7; PacBell et al. at 3; Southwestern Bell at 6; Sprint at 5.

owners. Adding another reporting requirement would also diminish the value of streamlining the Commission's procedures.

IX. Some Restrictions Should Apply to Voluntarily Lit and Marked Structures; GTE Objects to a Proposed Change to the FCC's Environmental Rules

In its Comments, GTE opposed requiring that voluntarily lit structures meet FAA standards. Upon further reflection, GTE believes that some minimum restrictions should apply to voluntarily lit or marked towers. Specifically, GTE suggests that owners who wish to voluntarily light or mark their towers either 1) comply with FAA guidelines for marking and lighting; or 2) obtain a letter of "no objection" from the FAA. GTE acknowledges that some precautions should be taken to prevent confusion for aircraft pilots.

GTE opposes the FAA's proposal that medium intensity lighting be included in the Commission's environmental rules as causing a significant environmental impact per se.²⁸ GTE believes that such a revision of the environmental rules is beyond the scope of this docket. Many interested parties would not have sufficient opportunity to comment on such a substantial change in the Commission's environmental rules.

X. GTE Requests Clarification of Current Requirements for Filing Form 854

The NPRM, GTE, and other commenters noted that under existing rules cellular carriers are no longer required to

²⁸ See FAA at 5.

notify the Commission of the construction or modification of cell sites located in the interior of their systems.²⁹ A recent Public Notice issued by the Commercial Wireless Division of the Wireless Telecommunications Bureau stated that "[n]otwithstanding this streamlining of procedures," licensees would still be required to file Form 854 for structures that exceed the requirements of Section 17.7 of the Commission's rules.³⁰ Section 22.163(c) also seems to require the filing of a Form 854 whether a Form 489 is filed or not, though no time-frame for the filing is established. 47 C.F.R. § 163(c).

GTE has been informed orally by Commission Staff, however, that if a cellular licensee files a Form 489, a Form 854 need not be filed. Form 854 would only be necessary when internal structures are erected which require FAA clearance and would not otherwise come to the Commission's attention via a Form 489 or Form 600. Because of the evident confusion on this point, and regardless of the adoption of a broader registration requirement, GTE respectfully requests clarification of Section 22.163(c)'s mandate.

²⁹ See Commercial Wireless Division Announces the Clarification and Streamlining of Procedures for the Cellular Radiotelephone Service, Report No. CL-95-72 (Wireless Telecommunications Bureau, April 14, 1995) [hereinafter Wireless Public Notice]; NPRM at ¶ 13; Bell Atlantic at 2; see also Mtel at 6-7.

³⁰ Wireless Public Notice at 2.

XI. Conclusion

The record firmly supports the Commission's intention to streamline the antenna structure clearance process and to create a uniform database. With the proposed modifications supported by the record, the Commission's goals of streamlining procedures and enhancing air safety may be more easily achieved.

The record does not support the registration of all antenna structures. The record also reveals concern among licensees that the process, as currently proposed, could cause significant delays in the construction of new transmitter sites. The record further demonstrates that owners should have all of the responsibility for complying with FAA guidelines, with no secondary responsibility falling upon tenant licensees, who do not have the ability to control an owner's actions.

The record supports the creation of a grace period for the voluntary reporting of corrected antenna information, as well as a provision, within certain limits, grandfathering licensees' authorizations at the corrected locations. Additionally, GTE objects to a renewal process as unnecessary, but supports some restrictions on the voluntary lighting and marking of tower structures.

The Commission's goals in streamlining the antenna clearance process, revising Part 17, and creating a uniform database are commendable, and GTE fully supports such efforts.

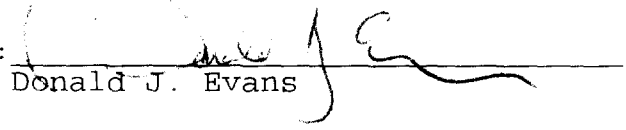
GTE believes that the proposals set forth in its Comments, which are supported by the record, will assist the Commission in more fully attaining its stated purposes for issuing the NPRM.

Respectfully submitted,

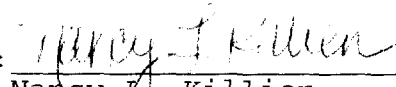
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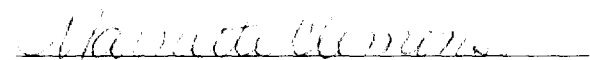
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